

CLAIM 1**Serial No. 09/978,576****REMARKS**

Reconsideration and withdrawal of the outstanding grounds of objection and/or rejection are respectfully requested in light of the above amendments and the remarks which follow.

The Examiner has objected to claims 18 and 19 in light of informalities identified by the Examiner on page 2 of the Official Action.

Applicant has amended claim 18 to delete a reference to "C-shaped ribs" and to refer instead to "L-shaped ribs" as described in the specification, thereby overcoming the objection.

The Examiner has also rejected claim 19 under 35 U.S.C. 112, second paragraph as indefinite for lack of antecedent basis for the limitation "said substantially L-shaped ribs."

The amendment to claim 18, from which claim 19 depends, overcomes the rejection of claim 19 by providing the required antecedent basis.

The Examiner has rejected claims 1, 3, 6, 7, 11-14 and 16 under 35 U.S.C. 102(b) as anticipated by Hammett '487.

Claim 1 now requires that the peripheral wall be continuous along the side walls, and that the lower portion of the peripheral wall and the columns be of single wall construction except for hollow caps at upper ends of the columns.

In Hammett, the lower portion of the peripheral wall is not continuous along the side walls but rather, is cut out in the area below each of the crenellations 18. In addition, there are no support buttresses in Hammett '487 that extend both downwardly and

HAMMETT**Serial No. 09/978,576**

inwardly from a lower edge of a respective one of the hollow caps. In addition, Hammett '487 does not disclose or suggest an arrangement where the lower portions of the side and end walls are connected to the crate bottom by a plurality of inwardly directed ribs arranged in groups, respectively, directly below each cut-out. Rather, Hammett '487 discloses a single rib between two cut-outs of adjacent crenellations.

With regard to dependent claim 6, the bottle supporting platforms in Hammett '487 are not flush with the crate bottom as apparent from Figures 1 and 3.

For the above reasons, none of claims 1, 3, 6, 7 and 11 are anticipated by Hammett '487.

With regard to independent claim 12, that claim has been amended to require that the cut-outs be located, respectively, adjacent each bottle supporting platform. In addition, the claim now requires that lower portions of the peripheral wall be continuous along the side walls.

In Hammett '487, the cut-outs are located directly below the crenellations 18 and are thus not adjacent the bottle supporting platforms. In addition, and as already noted, the lower portion of the peripheral wall in Hammett '487 is not continuous along the side walls.

With respect to dependent claim 14, the upper surface of the crate bottom in Hammett '487 is not flat but rather, includes raised bottle supporting platforms as evident from Figure 3.

For the above reasons, it is respectfully submitted that none of claims 1, 3, 6, 7, 11-14 and 16 are anticipated by Hammett '487.

HAMMETT

Serial No. 09/978,576

The Examiner has rejected claims 12, 13 and 23 under 35 U.S.C. 102 as anticipated by Apps '328.

Independent claim 12 requires a plurality of substantially U-shaped cut-outs in upper portions of the side wall and end walls defining columns between the cut-outs. The cut-outs 42 in Apps '328 are V-shaped and do not define columns between the cut-outs. In other words, the columns 16 in Apps '328 have no connection whatsoever with the cut-outs 42.

In addition, the lower portion of the peripheral wall in Apps '328 is not continuous along the side walls, nor are there cut-outs in the lower portions of the end walls that define handlebars extending between adjacent columns in the end walls directly above the handle cut-outs as also required by claim 12. With regard to dependent claim 23, Apps '328 nowhere discloses laterally spaced wedge slides that provide a smooth transition from the upper portion to the lower portion of the side walls.

For the above reasons, none of claims 12, 13 and 23 are anticipated by Apps '328.

The Examiner has rejected claims 17, 20 and 21 under 35 U.S.C. 102 as anticipated by Apps '277.

Claim 17 now also requires the lower portion of the peripheral wall to be continuous along the side walls and that the lower portion of the peripheral wall as well as the columns be of single wall construction.

double wall construction incorporates single wall construction

In Apps '277, the lower wall portion is expressly disclosed as being of double-walled construction (see column 3, lines 21-24 and column 7, lines 1-12). In addition, the handlebars are not connected directly to the crate bottom. Neither of claims 17 and

CLAIM 1

Serial No. 09/978,576

20 are anticipated by Apps '277. Note that claim 21 has been cancelled as redundant in light of an identical limitation in independent claim 17 from which claim 21 ultimately depends.

The Examiner has rejected claim 2 under 35 U.S.C. 103 as unpatentable over Hammett '487 in view of Apps '461.

Apps '461 is cited as teaching a group of three ribs as shown in a bottom perspective of Figure 3.

The ribs referred to by the Examiner do not extend from the cut-outs to the crate bottom. Rather, the ribs extend inwardly from a solid curved member (unnumbered in the drawings). In other words, the crate bottom in Apps '461 is not attached directly to the side wall by means of the plurality of groups of ribs. Moreover, the combination of Hammett '487 and Apps '461 still does not produce the invention defined in claim 1.

Accordingly, the Section 103 rejection of claim 2 is improper.

The Examiner has rejected claims 4, 5, 8, 9 and 10 under 35 U.S.C. 103 as unpatentable over Hammett '487 in view of Apps '277. The Examiner contends that Apps teaches nesting ribs 80, double wall thickness handlebars (Figure 1) and bottle support ribs 79, and concludes that it would have been obvious to add these features to Hammett so as to meet the claimed invention.

With respect to dependent claim 4, it is not readily apparent how the nesting ribs 80 in Apps can be applied to the crate of Hammett. In this regard, note that Hammett employs ribs 30 to support overlying crates when the crates are stacked empty, with additional stability provided by tapered components 26 located only in the central pillars

Serial No. 09/978,576

16. Any attempt to replace the nesting stops of Hammett with the nesting ribs of Apps is therefore an exercise in impermissible hindsight. For example, it is not even remotely clear if it is possible that any such nesting ribs within the interior of the peripheral pillars in Hammett would, in fact, serve as nesting stops. This argument also holds true with respect to dependent claim 5. Claims 8 and 9 are patentable by reason of their dependence upon claim 1. With regard to dependent claim 10, neither Hammett nor Apps discloses hollow caps at the top of the peripheral columns, each of which is formed with a pair of bottle supporting ribs facing respective adjacent bottle receiving platforms. For the above reasons, the rejection of claims 4, 5, 8, 9 and 10 is improper and should be withdrawn.

In addition, the combination of references fails to disclose the subject matter of independent claim 1 from which claims 4, 5, 8, 9 and 10 depend. This is especially true with respect to the limitation in claim 1 calling for a plurality of inwardly directed ribs arranged in groups, respectively, directly below each cut-out, and extending from said cut-out to the crate bottom.

The Examiner has also rejected claims 1, 3-16, 18, 19 and 23 under 35 U.S.C. 103 as unpatentable over Apps '277 in view of Apps '328 and Hammett '487. According to the Examiner, Apps '277 discloses the invention except for the connection between the crate bottom and the handles. The Examiner relies on both Apps '328 and Hammett for disclosing a connection in the middle of the handle and concludes that it would have been obvious to incorporate this feature into Apps '277.

HAMMETT

Serial No. 09/978,576

In the first instance, Apps '277 fails to disclose the plurality of inwardly directed ribs arranged in groups, respectively, directly below each cut-out, and extending from the cut-out to the crate bottom. This limitation is also nowhere disclosed or suggested in either of Apps '328 or Hammett '487.

It follows that the limitations of claim 3 are also not met by the combination of references.

The arguments presented hereinabove with respect to the rejection of claim 4 as unpatentable over Hammett in view of Apps '277 applies equally here with respect to dependent claims 4 and 5.

Claims 6-9 are patentable by reason of their dependence upon claim 1.

None of the applied references disclose or suggest the limitations in claims 10, and claim 11 is patentable by reason of its dependence upon claim 1.

Independent claim 12 has been amended to incorporate the limitations of claim 13, so that the handlebar is required to be connected directly to the crate bottom at a midpoint of the handlebar by a strut extending from the handlebar to a raised pedestal on the crate bottom. None of the prior art documents cited by the Examiner disclose this limitations. Thus, claim 12 is patentable over the applied prior art. Claim 13 has been cancelled. Claims 14-16 are patentable by reason of their dependence upon claim 12.

With regard to dependent claims 18 and 19, none of the prior art documents disclose a plurality of substantially L-shaped ribs located directly beneath respective ones of said cut-outs and therefore, claims 18 and 19 also patentably distinguish over the prior art.

HAMME'I'I'**Serial No. 09/978,576**

The Examiner has rejected claim 22 under 35 U.S.C. 103 as unpatentable over Apps '277. Claim 22 depends from claim 17 and is therefore also patentable by reason of its dependence upon claim 17 for the reasons presented above. In addition, claim 22 requires that each of the hollow caps be formed with a pair of bottle supporting ribs facing respective adjacent bottle receiving platforms. Apps '277 discloses no such arrangement, as acknowledged by the Examiner. To conclude that it would have been obvious to provide for the claimed arrangement, absent supporting evidence, is clearly improper under 35 U.S.C. 103.

It is respectfully submitted that all of the remaining claims 1-12, 14-20, 22 and 23 are in condition for allowance, and early passage to issue is requested. In the event, however, any small matters remain outstanding, the Examiner is encouraged to telephone the undersigned so that the prosecution of this application can be expeditiously concluded.

Attached hereto is a marked-up version of the changes made to the specification and claim(s) by the current amendment. The attached page(s) is captioned "**Version With Markings To Show Changes Made.**"

HAMMETT

Serial No. 09/978,576

Respectfully submitted,

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CLAIM 11

Serial No. 09/978,576

VERSION WITH MARKINGS TO SHOW CHANGES MADE**IN THE CLAIMS**

Amend claims 1, 12, 17 and 18 as follows:

1. (Amended) A low depth bottle crate having a peripheral wall of uniform height, said peripheral wall including a pair of side walls and a pair of end walls; a crate bottom connected to said peripheral wall, an upper surface of said crate bottom formed to include a bottle supporting platform for each bottle to be received in the crate; a plurality of substantially U-shaped cut-outs in upper portions of said side and end walls defining columns between said cut-outs, lower portions of said peripheral wall being continuous along said side walls, said lower portions of said peripheral wall and said columns being of single wall construction except for hollow caps at upper ends of said columns that are of double wall construction; each of said columns, except for four corner columns, having a support buttress extending downwardly and inwardly from a lower edge of a respective one of said hollow caps to said crate bottom, and wherein said cut-outs terminate at a ledge that separates said upper portions of said side and end walls from said lower portions of said side and end walls, and further wherein said lower portions of said side and end walls are connected to said crate bottom by a plurality of inwardly directed ribs arranged in groups, respectively, directly below each cut-out, and extending from said each cut-out to said crate bottom.

CLAIM 1

Serial No. 09/978,576

12. (Amended) A low depth bottle crate having a peripheral wall of uniform height, said peripheral wall including a pair of side walls and a pair of end walls; a crate bottom connected to said peripheral wall, an upper surface of said crate bottom formed to include a bottle supporting platform for each bottle to be received in the crate; a plurality of substantially U-shaped cut-outs in upper portions of said side and end walls defining columns between said cut-outs, said cut-outs located, respectively, adjacent each bottle supporting platform and terminating at a ledge that separates said upper portions of said side and end walls from lower portions of said side and end walls[.]; lower portions of said peripheral wall being continuous along said side walls, and wherein handle cut-outs are provided in lower portions of said end walls, defining handle bars that extend between adjacent columns in said end walls directly above said handle cut-outs, each handle bar connected directly to the crate bottom at a mid-point of said handle bar by a strut extending from said handle bar to a raised pedestal on said crate bottom.

17. (Amended) A low depth bottle crate having a peripheral wall of uniform height, said peripheral wall including a pair of side walls and a pair of end walls; a crate bottom connected to said peripheral wall, an upper surface of said crate bottom formed to include a bottle supporting platform for each bottle to be received in the crate; a plurality of substantially U-shaped cut-outs in upper portions of said side and end walls defining columns between said cut-outs, lower portions of said peripheral wall being continuous along said side walls, said lower portions of said peripheral wall and said columns being of single wall construction except for hollow caps at upper ends of said columns that are

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Serial No. 09/978,576

of double wall construction; and wherein handle cut-outs are provided in lower portions of said end walls, and handle bars extend between adjacent columns in said end walls directly above said handle cut-outs, each handle bar connected directly to the crate bottom; said crate bottom having a lower surface formed with an array of recesses adapted to engage bottle caps of bottles carried in an underlying similar crate, said recesses in each of four quadrants being individually different but substantial mirror images of recesses in adjacent quadrants in respective longitudinal and transverse directions.

18. (Amended) The low depth crate of claim 17 wherein said lower portions of said peripheral wall are connected to said crate bottom by a plurality of [groups of] substantially [C]L-shaped ribs located directly beneath respective ones of said cut-outs.